

NOTICE OF PROPOSED REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation**

NOTICE IS HEREBY GIVEN that the Secretary of the Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret, and make specific PC Section 5054, proposes to amend, adopt, renumber, and repeal Sections 3050, 3051, 3052, 3053, 3054 in the California Code of Regulations (CCR), Title 15 concerning Food Service.

PUBLIC HEARING:

Date and Time: November 21, 2005, 9:00a.m. - 12:00p.m.
Place: Water Resources Auditorium
1416 Ninth Street
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close November 21, 2005, 5:00p.m. Any person may submit public comments in writing (by mail, by fax or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR and Rehabilitation, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)358-2636; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 358-1655**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**Cindy Sunley-Hereth
Regulation and Policy Management Branch
Telephone (916) 358-2477**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Susan B. Summersett
Adult Food Service Administrator
Telephone (916) 327-2828**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost or savings to any state agency: Additional expenditures of approximately \$955,615.00 in the current State Fiscal Year. A BCP has already been approved by the Department of Finance for these program expenditures for the current State Fiscal Year (FY 05/06).
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more

effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

On May 10, 2005, Legislation (Senate Bill 737) was signed into law and effective on July 1, 2005, the Youth and Adult Correctional Agency, which consisted of the California Department of Corrections (CDC), the California Youth Authority (CYA), the Board of Prison Terms, the Board of Corrections, the Youth Authority Board, and the Narcotic Addict Evaluation Authority was abolished and reorganized into the Department of Corrections and Rehabilitation.

Government Code (GC) Section 12838(a) creates the CDCR, headed by a secretary.

GC Section 12838.5 vests to the CDCR, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the abolished entities: CYA, CDC, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board of Corrections, and State Commission on Juvenile Justice, Crime and Delinquency Prevention. The abolished entities are known as "predecessor entities."

GC Section 12838.8 authorizes that all regulations adopted by the predecessor entities, continuing entities, and any of their predecessors are expressly continued in force, and any statute, law, rule, or regulation now in force or that may hereafter be enacted or adopted with reference to the predecessor entities and any of their predecessors shall mean the CDCR.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections, in this or any code, refers to the CDCR, Division of Adult Operations.

Penal Code (PC) Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the director. Commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5055 provides that all powers and duties granted to and imposed upon the Department of Corrections shall be exercised by the Director of Corrections, except where such powers and duties are expressly vested by law in the Board of Prison Terms. Commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR, except where those powers and duties are expressly vested by law in the Board of Parole Hearings.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

This action will incorporate into the CCR, Title 15, adopted, amended, renumbered, and repealed provisions concerning Food Service.

These proposed regulations are necessary in order to establish regulations specifically related to the Food Service Programs, and to update language concerning religious diets. Also, new Forms for the religious diet programs have been included in the rulemaking process.

The amended regulations will:

- Clarify the definition of religious diets and their availability to inmates.
- Establish a religious diet agreement between the Department and Inmates, and criteria for Institution Chaplains for oversight of religious diet programs.
- Provide the criteria for inmate participation in the religious diet programs.
- Establish the statewide menu plans for Heart Healthy, Jewish Kosher, and Vegetarian diet programs and processes pertaining to those programs.
- Amend regulatory language to accommodate religious observances, pork-free protein alternatives, Institution Chaplain's roles, religious event processes, religious diet training, religious meals, outside guests' attendance and charges per meal.
- Updates Food Service Health and Safety Standards required by the California Uniform Retail Food Facilities Law (CURFFL).